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Twentieth session

Summary record of the 417th meeting
Held at the Palais des Nations, Geneva, on Tuesday, 11 September 2018, at 3 p.m.

Chair: Ms. Degener

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* Reissued for technical reason on 1 October 2018.

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by parties to the Convention under article 35 (*continued*)

Initial report of Malta (CRPD/C/MLT/1; CRPD/C/MLT/Q/1 and CRPD/C/MLT/Q/1/Add.1)

1. *At the invitation of the Chair, the delegation of Malta took places at the Committee table.*

2. **Mr. Sultana** (Malta), introducing his country's initial report (CRPD/C/MLT/1), said that the report had been drafted in consultation with various government departments and entities, as well as with civil society and persons with disabilities. One major step in the implementation of the Convention had been the establishment of the Office for Disability Issues, which was tasked with managing and coordinating policy implementation, fostering a dialogue with stakeholders and ensuring consultation with persons with disabilities and their representative organizations. The Office was also responsible for disability-related research and for implementing, monitoring and updating the forthcoming National Disability Strategy.

3. The Government had also created an Autism Advisory Council, which was charged with drafting a national autism strategy and ensuring it was in line with relevant standards. The Council had organized the country's first autism spectrum town hall meeting, which had enabled young people with autism to discuss their concerns with members of the Council and the Parliamentary Secretary for the Rights of Persons with Disability. The Government had also established a Sign Language Council and was providing funding for the first sign language interpreting course at the University of Malta. It was in the process of developing a plan to increase and retain human resources in that field over the long term.

4. In line with article 12 of the Convention, the Government had drafted the Personal Autonomy Bill, which would replace the substitute decision-making model under the existing guardianship regime with a model that recognized the legal equality of persons with disabilities. The Government was currently conducting a public consultation on the bill in order to ensure that appropriate feedback was received from a range of stakeholders, including persons with disabilities themselves. It had also sought advice from the United Nations Special Rapporteur on the rights of persons with disabilities. Furthermore, the Government had strengthened its Personal Assistant Fund and Independent Community Living Scheme and planned to set up an independent living fund. Agenzija Sapport, the national service provision agency for persons with disabilities, was implementing training projects aimed at promoting the inclusion and employment of persons with intellectual disabilities.

5. The Government was committed to improving accessibility and had incorporated universal design into its regulations for the built environment and introduced guidelines on accessible tourism. The Government also placed great importance on sensorial accessibility, particularly in the school environment. Malta had made the European Accessibility Act a priority when it had held the presidency of the Council of the European Union in 2017, and the Government had worked to promote accessibility at both the European and national levels. The Government was also in the process of incorporating into national law the European Union legislation on the implementation of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled and the European Union directive on the accessibility of the websites and mobile applications of public sector bodies.

6. The system for assessing persons with disabilities was being streamlined with a view to putting in place a single, functioning-based assessment mechanism. Under the new system, regular reviews would be conducted, and individuals would have a right of appeal; the system would also ensure that those who would otherwise be excluded from an impairment-based system were included in the assessment process. In addition, the system would facilitate the collection of data for a national disability register, in keeping with the Convention and current data protection regulations. The data would be tabulated and disaggregated in line with recognized standards. Discussions were under way with a view to ensuring that surveys and

censuses were conducted in accordance with the criteria of the Washington Group on Disability Statistics.

7. In terms of other policy and legislative developments, a public consultation concerning the new draft inclusion policy for schools would soon begin, and under forthcoming amendments to the Education Act, the Directorate for Quality and Standards would be tasked with monitoring inclusion of persons with disabilities in the education sector. The new Social Care Standards Authority Act provided for the establishment of a new oversight body whose remit included monitoring of residential services for persons with disabilities. The recently enacted Gender-Based Violence and Domestic Violence Act specifically addressed the needs of women and girls with disabilities. Psychosocial care and other support was available to women and girls with disabilities who had been victims of violence.

8. The Equality Bill currently before Parliament paid particular attention to the issue of multiple and intersectional discrimination. The Human Rights and Equality Commission Bill, also currently before Parliament, would provide for the establishment of the country's national human rights institution. The Commission for the Rights of Persons with Disabilities would be represented on the Human Rights and Equality Commission. Lastly, the Government had increased the funding allocated to the disability sector by €5 million in 2018, bringing the total allocation to €20 million.

9. **Mr. Pyaneandee** (Country Rapporteur) said that the Government's legislative efforts to implement the Convention were commendable, in particular the Equal Opportunities (Persons with Disability) Act, the Sign Language Recognition Act, and the Persons within the Autism Spectrum (Empowerment) Act. However, a medical model of disability persisted in Malta, as evidenced by the country's impairment-based disability assessments. He would like to know how the State party intended to move away from the medical approach. Furthermore, little had been done to address the issue of intersectional discrimination, and there was no system for documenting complaints and no redress mechanism. There were also no legal provisions governing the accessibility of information and of information and communications technology, nor were there any measures in place to provide procedural and age-appropriate accommodations. In addition, the Personal Autonomy Bill did not appear to address the issue of supported decision-making. Another serious source of concern was the practice of involuntary detention under the Mental Health Act. Moreover, persons with disabilities still faced difficulties in finding work, education was not fully inclusive and there was little awareness of the economic, social and cultural benefits of inclusive education for persons with disabilities. Lastly, while he welcomed the establishment of the national Commission for the Rights of Persons with Disability, he had serious concerns about its methods of appointment and the level of representation of persons with disabilities.

Articles 1–10

10. **Mr. Kabue** asked what steps had been taken to finalize and adopt the new National Disability Strategy. He also wished to know what progress had been made in combining the different disability assessments into one so that persons with disabilities did not have to undergo multiple assessments. Noting the Government's electoral pledge regarding the representation of persons with disabilities on all major government boards, he asked how many persons with disabilities were currently sitting on such boards. The Government had indicated in its replies to the list of issues (CRPD/C/MLT/Q/1/Add.1, para. 48) that most disability-based complaints were solved amicably; he wondered how effective that approach was and whether it served to deter recurrent discriminatory practices. He also wondered what affirmative action had been taken to protect and empower women and girls with disabilities.

11. **Mr. Buntan** said that he would welcome information on government support, be it financial or technical, for the participation of persons with disabilities and their representative organizations in the formulation, implementation and monitoring of policies concerning their rights and the implementation of the provisions of the Convention. The State party was to be commended for having adopted the Equal Opportunities (Persons with Disabilities) Act and for its work on accessibility. He wondered, however, whether failure to provide reasonable accommodation was explicitly defined as a form of disability-based discrimination and, if so, whether complaints and redress mechanisms had been set up. He would also like to know

whether most complaints involving reasonable accommodation were resolved amicably, whether there were sanctions for non-compliance with accessibility requirements and whether any measures had been taken to improve accessibility through the public procurement policy.

12. **Mr. Langvad** said that he would like to know whether the State party intended to work to bring the proposed European Union directives on the approximation of the laws, regulations and administrative provisions of the member States as regards the accessibility requirements for products and services and on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation into line with the Convention. He would also like to know whether the Access for All guidelines referred to in paragraphs 46 and 49 of the State party report were applied to the public and private sectors and to the transport industry. Further information on the State party's progress in implementing the European Union directive on the accessibility of the websites and mobile applications of public sector bodies would be welcome. Lastly, he wondered whether the State party intended to withdraw its interpretative declaration regarding article 25 (a) of the Convention.

13. **Mr. Chaker** asked whether the State party had set up a national human rights institution in line with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) and whether the Government had launched any campaigns to raise awareness regarding persons with disabilities and their rights.

14. **Mr. Martin** asked whether training on the rights of persons with disabilities was provided to government officials and actors in the justice system and the media. If not, were there plans to introduce such training?

15. **The Chair** said that she would like to know whether organizations of persons with disabilities had been involved in designing the new disability assessment system, whether the human rights model of disability was incorporated into the system and whether applicants were actively engaged in generating the information on which assessments were based. It would be interesting to hear whether multiple methods of assessment had been eliminated to reduce the burden on applicants and to promote consistency and transparency. She would also like to know whether information on assessment requirements was accessible and user-friendly and whether the assessment process was subject to regular independent reviews. Lastly, she wished to know the State party's position on the draft Additional Protocol to the Council of Europe Convention on Human Rights and Biomedicine (Oviedo Convention) concerning the protection of human rights and dignity of persons with mental disorder with regard to involuntary placement and involuntary treatment.

16. **Mr. Basharu** asked whether the State party intended to reconsider its reservations to article 29 (a) (i) and (iii) of the Convention. The Committee would welcome additional information on any measures, including legislative and policy measures, adopted to prevent multiple and intersecting forms of discrimination against women and girls with disabilities and to create a society that was fully inclusive of that population group, in particular in the fields of health, education, housing, employment, participation in sports and recreational activities and social life, ensuring respect for their dignity. Noting that the current reasonableness test focused mainly on the financial implications of employing persons with disabilities, he asked whether the State party might consider re-examining the concept of reasonable accommodation.

17. **Mr. Lovászy** said that he would be grateful if the delegation would elaborate on the statement in paragraph 80 of the State party's replies to the list of issues to the effect that, during 2017, no official complaints had been received by the Broadcasting Authority relating to the portrayal of disability and therefore no action had been taken in that regard. More information on the planned amendments to relevant legislation and meaningful consultation with stakeholders, referred to in paragraph 81 of the replies to the list of issues, would also be welcome.

18. **Mr. Pyaneandee** asked whether a system had been put in place that allowed children with disabilities to freely express themselves regarding issues affecting their daily lives. He wondered whether the Government had worked with organizations of persons with

disabilities to disseminate the Committee's general comments and how much budgetary funding had been allocated for awareness-raising activities in 2017 and 2018.

The meeting was suspended at 3.45 p.m. and resumed at 4.15 p.m.

19. **Mr. De Gaetano** (Malta) said that, in line with the its electoral pledges, the Government intended to launch the National Disability Strategy by the end of 2018, following further consultation with organizations of persons with disabilities. A unified disability assessment system was being introduced to ensure respect for the dignity of persons with disabilities and to reduce red tape for both applicants and the administrative agency concerned. Academics and organizations of persons with disabilities had been involved in the development of the new system. The Government's aim was to eliminate multiple methods of disability assessment and to ensure that all disability-related policies and legislation were underpinned by the human rights model of disability. Information on assessment requirements would be accessible and user-friendly, in line with the "nothing about us without us" principle.

20. As noted in the replies to the list of issues, a formal consultation mechanism was being set up within the Office for Disability Issues. The Commission for the Rights of Persons with Disability had established several committees, including a consultative committee for persons with intellectual disabilities, that consulted with persons with disabilities regarding all laws and policies, as required by the Equal Opportunities (Persons with Disability) Act. The Commission for the Rights of Persons with Disability carried out independent monitoring of the implementation of the Convention. The legislation establishing the Human Rights and Equality Commission, which would function as the national human rights institution, was currently before Parliament. The Commission would be fully in line with the Paris Principles. The Commissioner for the Rights of Persons with Disability would be involved in the work of the new body, as would representatives of organizations of person with disabilities.

21. The Government was keen to strengthen the participation of persons with disabilities in the formulation and drafting of laws and policies, and to that end was working with the Malta Federation of Organizations of Persons with Disability and other organizations to explore ways to improve dialogue with civil society. It was also working with specific groups of persons with disabilities. Recent consultations with the deaf community had taken place, for example, and had resulted in government funding for the training of sign language interpreters and trainers. Maltese Sign Language was one of the country's three official languages. Further collaboration with civil society was supported under a scheme whereby government employees could be seconded on a full-time basis to a civil society organization for persons with disability, with the Government continuing to pay their wages.

22. The Government had fulfilled its commitment to appoint persons with disabilities to the boards of major government bodies and had gone beyond the scope of its electoral pledge and appointed persons with disabilities to the boards of numerous other entities. There were currently persons with disabilities serving on government boards in the arts, broadcasting, transport, housing, education and employment sectors. In several cases, persons with disabilities chaired those boards.

23. Whenever a complaint of disability-based discrimination was brought before the Commission for the Rights of Persons with Disability, the first step was always to initiate a mediation process, through which many complaints were resolved. Where mediation failed, other dispute resolution mechanisms, such as arbitration, could be employed, or the matter could be taken before the civil courts, with the Commission appearing as a party to the complaint where necessary. The Equal Opportunities (Persons with Disability) Act provided for reasonable accommodation, and failure to provide such accommodation in fields such as education, health and employment was considered a form of disability-based discrimination. The reasonableness test established under the Equal Opportunities Act took into account all relevant factors, not just the financial implications of providing reasonable accommodation. The Test of Reasonableness Board reviewed requests for reasonable accommodation on a case-by-case basis and considered the opinions of a wide range of experts and stakeholders before arriving at a decision.

24. All planning applications were vetted to ensure that they met accessibility requirements, and obtaining a building permit was contingent on obtaining a compliance certificate. During its presidency of the European Commission, Malta had supported and promoted the European Accessibility Act as a priority. But national legislation went further than the Act, for example in respect of accessibility of the built environment, an area in which Malta had had legally binding standards in place for a number of years. Accessibility design standards applied to both the private and public sector, including the transport sector. Heavy fines could be imposed in cases of non-compliance. Malta was obliged to bring its legislation into line with the European Union web accessibility directive. The relevant legislation, which had already been drafted, would provide for regulatory review, with financial sanctions in cases of violation.

25. Work was under way to draft, subject to consultations with persons with disabilities, the United Nations Convention on the Rights of Persons with Disabilities Act, which would make the provisions of the Convention directly applicable. Individuals would thus be able not only to petition the Committee directly, given that Malta had ratified the Optional Protocol, but also to petition the Maltese courts regarding violations of the Convention not covered by the Equal Opportunities (Persons with Disability) Act. The new legislation would also refer to the Committee's general comments where applicable. In addition, there were plans, subject to consultations with persons with disabilities, to set up an accessible and cost-effective redress mechanism in the form of a tribunal.

26. Regarding affirmative action to protect and empower Maltese women with disabilities, the Government favoured empowerment over protection, and had therefore chosen to focus less on affirmative action and more on ensuring that women and girls with disabilities were fully included in society and able to participate on an equal basis with others in the fields of education, employment, sports and social and public life. The Government supported the European Union directive on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation and was incorporating its provisions into national legislation. The Equality Bill, currently before Parliament, specifically included the issue of multiple, intersectional discrimination, as well as gender-based discrimination, going above and beyond the provisions of the directive in those areas. The Equal Opportunities (Persons with Disability) Act 2000 and the Gender-Based Violence and Domestic Violence Act 2018 provided further safeguards, as did the National Children's Policy and the National Youth Policy.

27. Persons with disabilities had the same sexual and reproductive rights as all persons in Malta. The interpretative declaration entered by Malta in respect of article 25 (a) of the Convention were the result of the country's overarching national policy under which abortion was illegal. The Government did not plan to amend the legislation governing termination of pregnancy, although it was aware that social trends in that regard were evolving. While the reservation in respect of article 29 (a) (i) and (iii) of the Convention remained in place, a number of measures had been taken to facilitate participation in the electoral process for persons with visual or mobility impairments. The Government was working to build consensus among the various political parties with a view to lifting the reservation once the necessary legislative changes had been made. The Government had not taken a formal position on the draft Additional Protocol to the Oviedo Convention, but it wished to move towards a person-centred, community-based system of care. To that end, it had formulated a 10-year plan.

28. **Ms. Azzopardi Lane** (Malta) said that the National Sexual Health Strategy addressed the needs of persons with disabilities. The strategy acknowledged that non-discriminatory, non-judgmental services needed to be provided, and appropriate capacity-building and training was being undertaken. Professionals from Aġenzija Sapport, and also from local non-governmental organizations (NGOs) were being trained in the area of sexuality and disability. The Department of Disability Studies at the University of Malta offered a number of courses on sexuality and disability and the University was conducting related research. Sex education resources were being translated into Maltese in order to make them accessible to persons with an intellectual disability whose first language was Maltese.

29. Women and girls in Malta had the same opportunities to participate in sporting activities as their male counterparts. Maltese women had represented their country in

swimming at the 2016 Paralympic Games, and there had been a general increase in the numbers of women and girls with disabilities participating in sport in Malta.

30. **Mr. De Gaetano** (Malta) said that awareness campaigns were planned and implemented in consultation with persons with disabilities. Disability equality training was provided to public and private stakeholders, and that training was exclusively designed and delivered by persons with disabilities. Care was taken to ensure that the format of the training made it accessible to persons with disability and feedback was gathered from such persons on areas in which awareness-raising was needed. The Commission for the Rights of Persons with Disability had mounted specific, targeted campaigns to sensitize the Malta Police Force and the courts to the problems faced by persons with disabilities. Regular disability equality training was provided to government officials, while training for those working in the justice system was under discussion. The Commission held regular sensitization meetings with persons working in the print, online and visual media. Legislation on the portrayal of persons with disabilities in the media was enforced. Bodies that dealt with specific disabilities also engaged in awareness-raising. For example, the Autism Advisory Council had recently carried out a campaign aimed at correcting misapprehensions about autism. The Government had allocated €30,000 for disability awareness-raising campaigns in 2017. The 2018 awareness-raising budget was currently under discussion but was expected to be the same or larger.

31. He believed that the fact that no complaints had been received of negative portrayal in the media of persons with disabilities was a positive sign. However, as mentioned earlier, Malta had a mediation procedure for dealing with complaints though constructive dialogue, and a number of such discussions had been held in 2017 and in 2018. The Commission for the Rights of Persons with Disabilities took firm action where there were cases of negative portrayal of persons with disabilities in the visual media. The rise of social media had created new challenges, and the Government was currently in discussions with all stakeholders with a view to adopting a law on hate crime in the social media.

32. The Government had adopted specific legislation to uphold the rights of children with disabilities and had launched a series of initiatives to promote the participation of children with disabilities, including children with autism, in the Council for Children. It had also organized workshops and camps where children with disabilities had shared their views and opinions on a variety of topics, such as mental health awareness.

33. **Ms. Schembri Muscat** (Malta) said that the Ministry of Education had consulted children with disabilities on a range of different matters. For example, children with disabilities had been given the opportunity to review the latest national policy on inclusive education and to describe the accommodations they would require in order to attend mainstream schools and feel included in the school community. Children with autism had also been consulted regarding classroom modifications needed to enable them to feel safe and at ease at school. All information obtained during those consultations had been recorded and would be taken into account in the ongoing work on the draft Inclusion Policy for Schools.

34. **Ms. Azzopardi Lane** (Malta) said that the University of Malta had taken steps to ensure that persons with disabilities, including those with intellectual or psychosocial disabilities, had access to disability research in easy-to-read formats. Efforts had also been made to involve persons with intellectual disabilities in research projects and empower them to produce accessible information for other persons with disabilities.

35. **Mr. Farrugia** (Malta) said that Aġenzija Sapport remained firmly committed to making accessible information available to persons with disabilities and had launched an initiative to offer all its forms, policies and procedures in accessible formats, such as Easy Read. The newly established research department within Aġenzija Sapport worked closely with the University of Malta to include the views of persons with disabilities in its work.

The meeting was suspended at 5.15 p.m. and resumed at 5.20 p.m.

Articles 11–20

36. **Mr. Basharu** said that he would like to know what measures had been taken by the State party to include persons with disabilities in the General Emergency Plan and whether the Plan was in line with the Sendai Framework for Disaster Risk Reduction. He also wished to know what action had been taken to make courthouses, police stations, and prisons and other places of detention accessible for persons with disabilities and to make appropriate procedural accommodations available in the justice system, including through the provision of information in accessible formats such as Braille, Easy Read and sign language. It would be interesting to hear whether training had been provided to judges, magistrates, lawyers and other court officials to enable them to understand the requirements of persons with disabilities, especially persons with psychosocial and intellectual disabilities, and whether steps had been taken to promote the participation of persons with disabilities in the justice system as lawyers, judges and jurors. Lastly, he asked what efforts had been made to ensure that persons with disabilities, particularly those with multiple impairments, had access to specially adapted vehicles and other assistive devices and technologies.

37. **Mr. Ruskus** asked what progress had been made towards abolishing substitute decision-making and guardianship arrangements that deprived persons with disabilities, including those with intellectual or psychosocial disabilities, of their legal capacity. It would be helpful to learn more about the provisions of the Personal Autonomy Bill. In particular, to what extent was the Bill in accordance with article 12 of the Convention and with the Committee's general comment No. 1 (2014) on equal recognition before the law, and did it explicitly provide for supported decision-making for persons with disabilities?

38. Noting that the 2012 Mental Health Act used the term "mental disorder", he asked what action would be taken to amend the terminology used to describe persons with disabilities and bring it into line with the Convention. He would also welcome information on the steps taken to prohibit the involuntary detention of persons with psychosocial disabilities and instead introduce community-based rehabilitation and support services. He would also be interested in learning whether measures had been introduced to obtain the prior informed consent of persons with disabilities for any kind of medical treatment, including electroconvulsive therapy. Lastly, he wished to know more about the functioning of the two entities tasked with protecting persons with disabilities from exploitation, violence and abuse, referred to in paragraph 94 of the report, particularly the specific measures they had taken to persons with disabilities, especially women and children, from domestic and institutional violence and to investigate, prosecute and sanction perpetrators of such acts.

39. **Mr. Alsaif** said that he would appreciate updated information on the number of complaints submitted to the two entities responsible for protecting persons with disabilities from torture, violence and abuse. It would also be useful to learn how many complaints had been received in relation to violations of the right to integrity of the person. He also wished to know what action had been taken to repeal legislation that provided for the involuntary or forced medical treatment of persons with psychosocial disabilities. In addition, he would like to know what efforts had been made to promote the concept of independent living and raise awareness of the importance of including persons with disabilities in society.

40. **Mr. Martin** said that he would like to know for how long persons with disabilities could be deprived of their legal capacity and whether decisions to deny legal capacity were subject to regular review. He also wished to know how many persons with disabilities continued to live in institutions, including the number of persons with intellectual or psychosocial disabilities. What steps had been taken to ensure that persons with disabilities had the right to choose where and with whom they lived, in accordance with article 19 of the Convention?

41. **Mr. Tatić** said that he wished to know the extent to which the State party had taken into account the Committee's general comment No. 5 (2017) on living independently and being included in the community in the drafting and implementation of its national deinstitutionalization strategy. He would be grateful for more information on the support provide to persons with disabilities requiring round-the-clock assistance, including whether they had the right to choose their own personal assistants. He would also welcome further

information regarding the use of European Union Structural and Investment Funds to promote independent living and include persons with disabilities in society.

42. **Mr. Langvad** asked what specific measures had been taken to uphold the right of persons with intellectual or psychosocial disabilities to live an independent life, in line with the Committee's general comment No. 5.

43. **Mr. Buntan** said that he would like to know more about the steps taken to make information on situations of risk and humanitarian emergencies available in accessible formats such as Braille, Easy Read and sign language, including for refugee and asylum seekers with disabilities. He also wondered whether refugees and asylum seekers with disabilities had access to the same support services as Maltese citizens with disabilities and could move freely around the State party's territory.

44. **Mr. Basharu** said that he would like to know what measures had been adopted as part of the national deinstitutionalization strategy to monitor residential homes for persons with disabilities and ensure that the persons who lived there had access to complaints procedures.

45. **Mr. Pyaneandee** said that, as the rights set out in articles 12 to 17 of the Convention were civil rights, the State party should take action to ensure that they were realized without delay. He would like to know when the Personal Autonomy Bill would be enacted and how the provisions of that bill differed from the present guardianship regime.

The meeting rose at 5.40 p.m.